



Legislative Briefs

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TERMINATING TENANCY IN DOMESTIC ABUSE CASES

2007 Wisconsin Act 184, passed by the legislature and signed by Governor Doyle on March 26, 2008, allows a victim of domestic violence to break a rental agreement if he or she feels that staying on the property is dangerous. The victim must be able to legally prove that either he or she or a child was under a threat of serious physical harm. The law also prevents landlords or local governments from imposing penalties or fees on tenants who call for emergency services. The bill was drafted with input from domestic violence advocates and landlord associations. It had bipartisan support in both houses of the legislature and is popularly known as the Safe Housing Act.

2007 WISCONSIN ACT 184

Tenants' rights. Under 2007 Wisconsin Act 184, a residential tenant may terminate his or her tenancy and leave the premises under the following conditions:

- 1) if that tenant or the child of the tenant faces "an imminent threat of serious physical harm from another person" if the tenant stays on the premises; *and*
- 2) if the tenant provides the landlord with proper notice and a certified copy of an injunction order protecting him or her from the person, or a criminal complaint alleging sexual assault, stalking, or resulting from the person's arrest for domestic abuse.

If the tenant meets these conditions and then leaves the premises, he or she is not liable

for rent after the end of the month *following* the month during which notice was given.

Landlords' rights. Act 184 also gives the landlord the right to evict an offending tenant under certain conditions. Those conditions are: if the offending tenant commits acts that cause another tenant to face an imminent threat of serious physical harm; if the tenant is the named offender in an injunction order, in a condition of release ordering him or her not to contact the other tenant, or in a criminal complaint alleging sexual assault, stalking, or resulting from the person's arrest for domestic abuse; and if the landlord gives the offending tenant written notice at least five days beforehand. The landlord can then terminate the tenancy.

Access to services. To prevent landlords from penalizing tenants who seek law enforcement or safety services, Act 184 provides that a rental agreement that restricts access to those services is void. Specifically, a rental agreement that allows a landlord to increase the rent, decrease services, bring an action for possession of the premises, refuse to renew the rental agreement, or that threatens to do any of those things because a tenant has sought law enforcement, health, or safety services, is void and unenforceable under Act 184.

Municipalities and counties are also restricted from imposing fees on owners or occupants of property who call for assistance

related to domestic abuse, sexual assault, or stalking.

REMOVING A BARRIER TO LEAVING

During the public hearings on the original bill, 2007 Senate Bill 269, advocates of domestic violence victims cited the fear of financial loss, liability, or ruined credit as reasons why these victims feel their only choice is to remain in their current living situation. Breaking a rental agreement could lead to legal action by the landlord. In cases where a couple has signed a rental agreement, the landlord cannot change the locks to bar entry by either party. In some cases, victims of domestic abuse will not call for services because they fear the landlord will raise the rent or take other retaliatory actions, or because in some cases municipalities or counties have imposed "nuisance" fees on residences that have called for emergency services several times. Financial and legal binds such as these prompted the call from Wisconsin organizations to change the landlord/tenant law in this area.

COLLABORATIVE EFFORT

2007 Act 184 was introduced as 2007 Senate Bill 269, by Senator Coggins and others. Its primary cosponsor in the assembly was Representative Suder. Several interest groups contributed to the drafting of SB-269, including advocacy groups such as the Wisconsin Coalition Against Sexual Assault, Inc., the Wisconsin Coalition Against Domestic Violence, Legal Action of Wisconsin, Inc., and landlord associations, including the Wisconsin Rental Housing Legislative Council.

The language of the bill was drafted to be specific about the types of situations to which the law would apply. It does not include restraining orders as evidence for breaking a rental agreement, only injunction orders or criminal complaints. Further, the danger cited

in breaking the agreement must be connected with the tenant staying on the premises. If a landlord then brings suit against the tenant who left, that tenant must provide evidence that all the appropriate conditions were met in order for him or her to break the rental agreement.

SB-269 was introduced on September 21, 2007. After adoption of a substitute amendment, the bill passed the senate on a voice vote on December 11. The bill was amended again by the assembly, and passed in that house on a voice vote March 12. The senate concurred in the amendment on March 13, and the bill was enrolled on March 19, 2008.

EFFECTIVE DATE

2007 Wisconsin Act 184 is effective April 10, 2008, and first applies to rental agreements entered into, modified, or renewed on that date. The law also first applies to calls made for law enforcement services on that date.

FOR FURTHER INFORMATION

View a copy of 2007 Wisconsin Act 184 at: www.legis.wi.gov/2007/data/acts/07Act184.pdf.

More information on tenant's rights and responsibilities can be found at the Department of Agriculture, Trade and Consumer Protection's Web site: <http://datcp.state.wi.us/cp/consumerinfo/cp/top-complaints/tenants.jsp>.

To find local information on domestic abuse services, visit the Department of Justice Web site at: www.doj.wi.gov/cvs/referrals/county.asp?type=DV

Other statewide organizations:

The Wisconsin Coalition Against Domestic Violence at: www.wcadv.org.

The Wisconsin Coalition Against Sexual Assault at: www.wcasa.org.